

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**ANTWAN H. BANKS, #403586,**

**Petitioner,**

**Civil No: 06-CV-15711  
Honorable Denise Page Hood  
Magistrate Judge Steven D. Pepe**

**v.**

**KURT JONES,**

**Respondent.**

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**ORDER DISMISSING PETITION FOR A WRIT  
OF HABEAS CORPUS AS DUPLICATIVE**

This matter is before the Court on Petitioner's, Antwan H. Banks', *pro se* request for habeas relief pursuant to 28 U.S.C. §2254. Petitioner, a state prisoner confined at Carson City Correctional Facility, in Carson City, Michigan, is challenging his March 25, 2002 conviction of assault with intent to commit armed robbery. He was sentenced to 15 - 20 years imprisonment.

On July 17, 2005, Petitioner filed a habeas petition challenging the same 2002 conviction raising Confrontation Clause and hearsay claims. *Banks v. Jones*, No. 05-CV-10157 (E.D. Mich. July 17, 2005) (Lawson, J.). The matter is currently pending. On November 21, 2006, Petitioner filed another habeas petition challenging the same 2002 conviction only claiming that he is being illegally detained without the discussion of any substantive issues. *Banks v. Jones*, No. 06-CV-15188<sup>1</sup> (E.D. Mich. November 21, 2006) (Zatkoff, J.). That matter is also still

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<sup>1</sup> On January 11, 2007, case number 06-CV-15188 was reassigned as a companion case to case number 05-CV-10157, presently pending before Judge David M. Lawson.

pending. Although all three of Petitioner's habeas petitions challenge the same conviction, the petition presently before the court is duplicative of the one filed in case number 06-CV-15188. Therefore, dismissal of this matter is appropriate.

A suit is duplicative and subject to dismissal if the claims, parties, and available relief do not significantly differ from an earlier-filed action. See, e.g., *Barapind v. Reno*, 72 F.Supp.2d 1132, 1145 (E.D.Cal.1999). In this case, Petitioner's current habeas petition challenges the same conviction and sentence and is based on the same grounds as the previous case assigned to Judge Zatkoff and later reassigned to Judge Lawson, case number 05-CV-10157. Moreover, the current petition challenges the same conviction as petitioner's first petition for habeas relief, assigned to Judge Lawson. Therefore, the present petition is subject to dismissal as a duplicate petition. See, e.g., *Flowers v. Trombley*, 2006 WL 724594, \*1 (E.D.Mich. March 17, 2006); *Harrington v. Stegall*, 2002 WL 373113, \*2 (E.D.Mich. Feb. 28, 2002); see also *Davis v. United States Parole Comm'n*, 870 F.2d 657, 1989 WL 25837, \* 1 (6th Cir. March 7, 1989) (holding that a district court may dismiss a habeas petition as duplicative of a pending habeas petition when the second petition is essentially the same as the first petition).

Accordingly,

IT IS ORDERED that the petition for a writ of habeas corpus [**Doc. #1, filed December 26, 2006**] is **DISMISSED** as a duplicate petition without prejudice to the adjudication of the habeas petitions filed under Case No. 06-CV-15188 and Case No: 05-CV-10157.

Dated: January 31, 2007

HOOD

/s/ Denise Page Hood  
HONORABLE DENISE PAGE  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 31, 2007, by electronic and/or ordinary mail.

S/William F. Lewis  
Case Manager